

HOUSE BILL No. 5790

July 18, 2012, Introduced by Rep. LeBlanc and referred to the Committee on Appropriations.

A bill to create the state forensic laboratory fund; to authorize local forensic laboratory funds; to provide for assessments against certain criminal defendants; to provide for expenditures from the forensic laboratories funds; to make certain appropriations; and to prescribe the powers and duties of certain department and agencies and local units of government.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known any may be cited as "the
2 forensic laboratory funding act".

3 Sec. 2. As used in this act:

4 (a) "CSC offense" means a violation or attempted violation of
5 section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,
6 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and

1 750.520g.

2 (b) "Forensic laboratory" means a laboratory maintained by the
3 department of state police or a municipality that meets all of the
4 following criteria:

5 (i) Has at least 1 regularly employed forensic scientist who
6 conducts analyses of controlled substances or androgenic anabolic
7 steroids for criminal justice agencies in criminal matters, and
8 provides testimony with respect to those analyses.

9 (ii) Is registered as an analytical laboratory with the drug
10 enforcement administration of the United States department of
11 justice for possessing all scheduled controlled substances.

12 (iii) Has at least 1 regularly employed forensic scientist who
13 conducts forensic tests other than those described in subparagraph
14 (i) and provides testimony with respect to those forensic tests.

15 (c) "Forensic test" means a drug analysis, toxicology
16 analysis, or other forensic analysis or examination in areas
17 including, but not limited to, latent prints, microchemistry,
18 serology, firearms, toolmarks, or questioned documents. Forensic
19 test does not include an analysis of the alcohol content of an
20 individual's breath.

21 (d) "Municipality" means a county, township, or village.

22 Sec. 3. The state forensic laboratory fund is created as a
23 separate fund in the state treasury. The state treasurer shall
24 credit to the fund all amounts received under sections 6 and 9.
25 Money in the fund credited to the department of state police under
26 section 7 that is not appropriated in a fiscal year shall be
27 credited to the fund to the credit of the department of state

1 police and shall not revert to the general fund. Earnings from the
2 fund shall be credited to the fund.

3 Sec. 4. A municipality that maintains a forensic laboratory
4 may establish a forensic laboratory fund within the office of the
5 treasurer of the municipality.

6 Sec. 5. The investigating officer of each criminal case being
7 adjudicated shall advise the prosecuting attorney if a forensic
8 laboratory has conducted a forensic test in the case.

9 Sec. 6. (1) The court shall order each person convicted and
10 sentenced on and after the effective date of this act for 1 or more
11 crimes in the case to pay an assessment of \$250.00 if 1 or more of
12 the following apply:

13 (a) The court is notified under section 5 that a forensic
14 laboratory has conducted a forensic test in the investigation of
15 the case.

16 (b) The person is convicted of a CSC offense.

17 (2) The assessment required under subsection (1) is in
18 addition to any fine, costs, or other assessments imposed by the
19 court. An assessment required under subsection (1) shall be ordered
20 upon the record, and shall be listed separately in the judgment of
21 sentence or order of probation.

22 (3) After reviewing a verified petition by the defendant
23 against whom an assessment is imposed, the court may suspend
24 payment of all or part of the assessment if it determines the
25 defendant is unable to pay the assessment.

26 (4) The court, prosecuting attorney, and originating
27 investigating law enforcement agency may each retain 5% of all

1 assessments or portions of assessments collected for costs incurred
2 under this section and shall transmit that money to their
3 respective funding units. On the last day of each month, the clerk
4 of the court shall transmit the remainder of assessments or
5 portions of assessments collected under this section as follows:

6 (a) Assessments ordered and collected before the effective
7 date of this act shall be transmitted to the department of treasury
8 for deposit in the state forensic laboratory fund created in
9 section 3.

10 (b) Assessments ordered before the effective date of this act
11 but collected on or after the effective date of this act shall be
12 transmitted to the state treasurer for deposit in the justice
13 system fund created in section 181 of the revised judicature act of
14 1961, 1961 PA 236, MCL 600.181.

15 Sec. 7. (1) Beginning on the effective date of this act the
16 department of treasury, each month, shall distribute proceeds of
17 the state laboratory fund that are received from the justice system
18 fund under section 181 of the revised judicature act of 1961, 1961
19 PA 236, MCL 600.181, as follows:

20 (a) For the state fiscal year beginning October 1 of the year
21 in which this act takes effect, 19% to the department of state
22 police to defray the cost of complying with the requirements of DNA
23 profiling and DNA retention under the DNA identification profiling
24 system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of
25 the fund being available for distribution under subsection (2) to
26 (5).

27 (b) For the state fiscal year beginning October 1 of the year

1 immediately following the year in which this act takes effect and
2 subsequent state fiscal years, 45% to the department of state
3 police to defray the cost of complying with the requirements of DNA
4 profiling and DNA retention under the DNA identification profiling
5 system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of
6 the fund being available for distribution under subsections (2) to
7 (5).

8 (2) A municipality that maintains a forensic laboratory and
9 that incurred expenses for a forensic test by that laboratory may
10 apply for reimbursement of those expenses on a form provided by the
11 department of treasury.

12 (3) A municipality applying under subsection (2) shall report
13 to the department of treasury the number of criminal investigations
14 in the preceding year for which the municipality's forensic
15 laboratory performed 1 or more forensic tests. The department of
16 state police shall report to the department of treasury in the
17 manner prescribed by that department the number of criminal
18 investigations in the preceding year for which the department of
19 state police performed 1 or more forensic tests, whether the
20 investigation was conducted by the department of state police or by
21 the law enforcement agency of a municipality. The department of
22 state police shall also report the number of DNA identification
23 profilings performed pursuant to the DNA identification profiling
24 system act, 1990 PA 250, MCL 28.171 to 28.176.

25 (4) The number of investigations reported pursuant to
26 subsection (3) shall exclude any investigation reported in a
27 previous year.

1 (5) After the distributions under subsection (1) are made, the
2 department of treasury shall distribute proceeds of the state
3 forensic laboratory fund annually to a municipality applying under
4 this section in an amount determined by multiplying the remaining
5 amount in the fund for that period by a fraction, the numerator of
6 which is the total of investigations reported pursuant to
7 subsection (3) by that municipality for that period and the
8 denominator of which is the total of investigations and DNA
9 identification profilings reported under subsection (3) for that
10 period. The balance of the fund for that period after distributions
11 under subsection (1) and this subsection shall be credited to the
12 department of state police.

13 (6) The legislature shall appropriate money in the state
14 forensic laboratory fund credited to the department of state police
15 to that department exclusively for forensic science services. The
16 use of money appropriated pursuant to this section may include, but
17 is not limited to, any of the following:

18 (a) Costs incurred in providing forensic tests in connection
19 with criminal investigations conducted within this state.

20 (b) Purchasing or maintaining equipment used in performing
21 forensic tests.

22 (c) Providing for the continuing education, training, and
23 professional development of regularly employed laboratory
24 personnel.

25 (d) Payment of expenses for implementing and performing
26 procedures for DNA identification profiling under the DNA
27 identification profiling system act, 1990 PA 250, MCL 28.171 to

1 28.176.

2 (7) Money appropriated from the state forensic laboratory fund
3 to the division of the department of state police concerned with
4 forensic sciences shall be in addition to any allocations made
5 pursuant to existing law and is intended to enhance appropriations
6 from the general fund and not to replace or supplant those
7 appropriations.

8 Sec. 8. (1) A municipality shall appropriate fees deposited in
9 a forensic laboratory fund established under section 4 to the
10 forensic laboratory maintained by the municipality.

11 (2) Money appropriated under this section shall be for the
12 exclusive use of the forensic laboratory maintained by the
13 municipality for the same purposes described in section 7(6)(a) to
14 (d) and shall be in addition to any allocations made by existing
15 law.

16 Sec. 9. The department of state police may accept for deposit
17 in the state forensic laboratory fund by the state treasurer gifts
18 and grants of money from individuals, federal or state governmental
19 agencies, corporations, partnerships, associations, foundations,
20 organizations, societies, or other legal entities.

21 Sec. 10. The department of state police or the department of
22 treasury, as applicable, shall report annually to the governor and
23 to the house and senate appropriations committees the amount
24 received and appropriated in the fiscal year pursuant to this act,
25 the amount expended pursuant to appropriations, and the balance in
26 the state forensic laboratory fund.

27 Sec. 11. This act shall take effect upon the expiration of 90

1 days after the date of its enactment. The assessment required by
2 this act applies to criminal prosecutions for offenses committed on
3 or after the effective date of this act.

4 Enacting section 1. This act does not take effect unless
5 Senate Bill No. ____ or House Bill No. 5791(request no. 05870'12 a)
6 of the 96th Legislature is enacted into law.